



Control Number: 48785



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SOAH CONSOLIDATED DOCKET NO. 743-19-1265
PUC CONSOLIDATED DOCKET NO. 48785

JOINT APPLICATION OF ONCOR
ELECTRIC DELIVERY COMPANY
LLC, AEP TEXAS INC., AND LCRA
TRANSMISSION SERVICES
CORPORATION TO AMEND
THEIR CERTIFICATE OF
CONVENIENCE AND NECESSITY
FOR 345-KV TRANSMISSION
LINES IN PECOS, REEVES, AND
WARD COUNTIES TEXAS (SAND
LAKE TO SOLSTICE AND
BAKERSFIELD TO SOLSTICE)

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

2019 JAN 24 PM 1:43
PUBLIC STAFF TRANSMISSION
FILING CLERK

**GALE AND DOROTHY SMITH'S RESPONSE TO COMMISSION STAFF
OBJECTIONS AND MOTION TO STRIKE PORTIONS OF INTERVENOR
DIRECT TESTIMONY**

COMES NOW, Gale and Dorothy Smith ("Smith"), Intervenor in this case proceeding, and files this Response to Commission Staff's ("Staff") Objections to and Motion to Strike Portions of Intervenor Direct Testimony and in support hereof would show:

I.

Smith Intervenor filed its direct testimony on January 10, 2019. On January 18, 2019, Staff filed its Objections to and Motion to Strike Portions of Intervenor Direct Testimony. Pursuant to SOAH Order No. 2, Replies to Objections to Intervenor Direct Testimony are due on January 24, 2019. Therefore, this Response to Staff's Objections to and Motion to Strike Portions of Intervenor Direct Testimony is timely filed.

II.

Staff objects that statements about alleged health effects of electro-magnetic fields ("EMF") require expert testimony and the witnesses making such testimony are not

qualified to give an expert opinion.¹ Staff objects that Intervenor testimony concerning potential diminution in property values and future use as not relevant.

Smith does not claim to be an expert on EMF or related EMF interferences. The objected-to testimony consists of general statements of concern and lay opinions regarding exposure to EMF, possible diminished property values (valuation) and future use. These general statements and opinions are not “speculation” and are legitimate statements of concern reflecting community values that should not be struck from the record. Rather, the ALJs should accord such testimony the appropriate weight as has been done in most cases.² Therefore, these statements are relevant under Rules 401, 402, and 602 of the Texas

¹ Staff objects to the direct testimony of Gale and Dorothy Smith.

² See, e.g., *Application of Rayburn Country Electric Cooperative, Inc. to Amend its Certificate of Convenience and Necessity for the Lower Bois D'Arc Water Treatment Plant 138-kV Transmission Line in Fannin and Hunt Counties, Texas*; Docket No. 47884, Order No. 5, (June 27, 2018) (denying similar objections by Rayburn Country Electric Cooperative, Inc.); *Application of Oncor Electric Delivery Company LLC to Amend a Certificate of Convenience and Necessity for A 345-kV Transmission Line in Crane, Ector, Loving, Reeves, Ward and Winkler Counties, Texas*; Docket No. 48095 Order No. 6, (June 6, 2018) (denying similar objections by Oncor and Staff); *Application of Oncor Electric Delivery Company LLC to Amend its Certificate of Convenience and Necessity for the Proposed 345/138 KV Transmission Line in Loving, Reeves and Ward Counties, Texas (Riverton – Sand Lake)*; Docket No. 47368 (Bench Order March 1, 2018) (denying similar objections by Commission Staff); *Application of Entergy Texas, Inc. to Amend its Certificate of Convenience and Necessity for a 230-kV Transmission Line in Montgomery and Walker Counties*; Docket No. 47462, Order No. 6, (February 6, 2018) (denying similar objections by Commission Staff); *Application of Brazos Electric Power Cooperative Inc., to Amend its Certificate of Convenience and Necessity for the 138-kV Transmission Line in Collin Counties*; Docket No. 46429, Order No. 7, (May 26, 2017) (denying similar objections by Brazos and Commission Staff); *Application of AEP Texas North Company and Electric Transmission of Texas, LLC to Amend their Certificates of Convenience and Necessity for a 138-kV Transmission Line within McCulloch and Menard Counties (Heartland to Yellowjacket)*; Docket No. 46234, Order No. 5, (February 28, 2017) (denying similar objections by AEP TNC & ETT and Commission Staff); *Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for a 345-kV Transmission Line within Hale, Hockley, Lubbock, Terry and Yoakum Counties (Tuco to Yoakum)*; Docket No. 46042, Order No. 4, (January 18, 2017) (denying similar objections by Commission Staff and SPS for these reasons); *Application of LCRA Transmission Services Corporation to Amend a Certificate of Convenience and Necessity for the Zorn-Marion 345-kV Transmission Line in Guadalupe County*; Docket No. 45601, Order No. 6, (May 31, 2016) (denying similar objections by Commission Staff and LCRA for these reasons); *Application of Brazos Electric Power Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a 138-kV Transmission Line in Denton County*; Docket No. 45170, Order No. 5, (April 5, 2016) (denying similar objections by Commission Staff and Brazos Electric for these reasons); *Application of AEP Texas Central to Amend a Certificate of Convenience and Necessity for a*

Rules of Evidence and appropriate lay witness opinion testimony pursuant to Rule 701 of the Texas Rules of Evidence as they are “rationally based on the witness’s perception” and “helpful to clearly understand the witness’s testimony.”

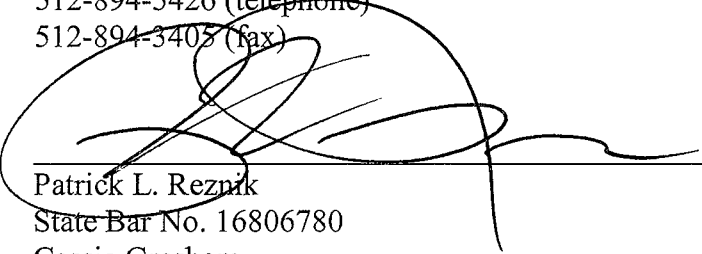
III.

WHEREFORE, PREMISES CONSIDERED, Smith respectfully requests that the ALJs deny all of the Objections and Motion to Strike Portions of Intervenor Direct Testimony by Staff.

Respectfully submitted,

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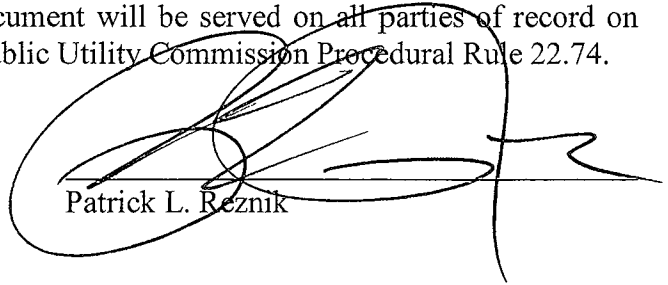
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**ATTORNEYS FOR GALE AND DOROTHY
SMITH**

Proposed 138-kV Transmission Line in Bee County and Goliad County, Texas; Docket No. 44837, Order No. 7, (February 17, 2016) (denying similar objections by Commission Staff and AEP Texas Central for these reasons); Application of CenterPoint Energy Houston Electric, LLC

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 24, 2019 in accordance with Public Utility Commission Procedural Rule 22.74.



Patrick L. Reznik